

ASSEMBLY BILL

No. 1842

Introduced by Assembly Member Gilmore

February 12, 2010

An act to amend Section 186.26 of the Penal Code, relating to gangs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1842, as introduced, Gilmore. Gangs: recruitment.

Existing law makes it a felony for any person to solicit or recruit another to actively participate in a criminal street gang, as defined, with the intent that the person solicited or recruited participate in a pattern of criminal street gang activity.

This bill would instead make it a felony for any person to solicit or recruit another to actively participate in a criminal street gang with the intent that the person solicited or recruited actively participate in the criminal street gang. Because this bill would create a new crime, it would impose a state mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 186.26 of the Penal Code is amended to
2 read:

1 186.26. (a) Any person who solicits or recruits another to
2 actively participate in a criminal street gang, as defined in
3 subdivision (f) of Section 186.22, with the intent that the person
4 solicited or recruited ~~participate in a pattern of criminal street gang~~
5 ~~activity, as defined in subdivision (e) of Section 186.22, actively~~
6 *participate in the criminal street gang* or with the intent that the
7 person solicited or recruited promote, further, or assist in any
8 felonious conduct by members of the criminal street gang, shall
9 be punished by imprisonment in the state prison for 16 months, or
10 two or three years.

11 (b) Any person who threatens another person with physical
12 violence on two or more separate occasions within any 30-day
13 period with the intent to coerce, induce, or solicit any person to
14 actively participate in a criminal street gang, as defined in
15 subdivision (f) of Section 186.22, shall be punished by
16 imprisonment in the state prison for two, three, or four years.

17 (c) Any person who uses physical violence to coerce, induce,
18 or solicit another person to actively participate in any criminal
19 street gang, as defined in subdivision (f) of Section 186.22, or to
20 prevent the person from leaving a criminal street gang, shall be
21 punished by imprisonment in the state prison for three, four, or
22 five years.

23 (d) If the person solicited, recruited, coerced, or threatened
24 pursuant to subdivision (a), (b), or (c) is a minor, an additional
25 term of three years shall be imposed in addition and consecutive
26 to the penalty prescribed for a violation of any of these
27 subdivisions.

28 (e) Nothing in this section shall be construed to limit prosecution
29 under any other provision of law.

30 SEC. 2. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.